

1 The Hon. Robert S. Lasnik  
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UNITED STATES DISTRICT COURT FOR THE  
WESTERN DISTRICT OF WASHINGTON  
AT SEATTLE

10 UNITED STATES OF AMERICA,  
11 Plaintiff,  
12 v.  
13 MICHAEL D. MACKAY,  
14 Defendant.

NO. CR23-102-RSL

**AMENDED PRELIMINARY  
ORDER OF FORFEITURE  
REGARDING 2010 LOTUS EVARA**

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17 THIS MATTER comes before the Court on the parties' Stipulated Motion for an  
18 Amended Preliminary Order of Forfeiture, seeking to forfeit, to the United States,  
19 Defendant Michael D. Mackay's interest in the following property:

20 a. 2010 Lotus Evara, serial number SCCLMDTU0AHA11737, purchased by  
21 Defendant Mackay on or about December 21, 2022 ("Subject Vehicle").

22 The Court, having reviewed the parties' Stipulated Motion, as well as the other  
23 papers and pleadings filed in this matter, hereby FINDS entry of an Amended  
24 Preliminary Order of Forfeiture regarding the Subject Vehicle is appropriate because:

25 • Any property consisting or derived from proceeds of the offense of Bank  
26 Fraud, in violation of 18 U.S.C. § 1344, is subject to forfeiture pursuant to  
27 18 U.S.C. § 982(a)(2).

- 1 • Pursuant to the Plea Agreement he entered on March 26, 2024, the  
2 Defendant agreed to forfeit all property that constitutes or is derived from  
3 proceeds of his commission of Bank Fraud. Dkt. No. 28 ¶ 14.
- 4 • Pursuant to the Stipulated Motion for Amended Preliminary Order of  
5 Forfeiture, the Defendant admits the Subject Vehicle constitutes or is  
6 derived from proceeds of his commission of Bank Fraud and agrees to  
7 forfeit his interest in it.

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9 **NOW, THEREFORE, THE COURT ORDERS:**

10 1. Pursuant to 18 U.S.C. 982(a)(2), parties' Stipulated Motion for an  
11 Amended Preliminary Order of Forfeiture, and the Plea Agreement, Defendant Mackay's  
12 interest in the Subject Vehicle is fully and finally forfeited, in its entirety, to the United  
13 States;

14 2. Pursuant to Fed. R. Crim. P. 32.2(b)(4)(A)-(B), this Amended Preliminary  
15 Order will be final as to the Defendant at the time he is sentenced, it will be made part of  
16 the sentence, and it will be included in the judgment;

17 3. The United States Department of Justice, the United States Postal  
18 Inspection Service, and/or its authorized agents or representatives, shall take custody of  
19 the Subject Vehicle and maintain custody and control of the Subject Vehicle until further  
20 order of this Court.

21 4. This forfeiture is separate and distinct from any restitution that is ordered in  
22 this case.

23 5. Pursuant to Fed. R. Crim. P. 32.2(b)(6) and 21 U.S.C. § 853(n),  
24 United States shall publish notice of this Amended Preliminary Order and its intent to  
25 dispose of the property as permitted by governing law. The notice shall be posted on an  
26 official government website – currently [www.forfeiture.gov](http://www.forfeiture.gov) – for at least thirty (30) days.  
27 For any person known to have alleged an interest in the property, the United States shall,

1 to the extent possible, provide direct written notice to that person. The notice shall state  
2 that any person, other than the Defendant, who has or claims a legal interest in the  
3 property must file a petition with the Court within sixty (60) days of the first day of  
4 publication of the notice (which is thirty (30) days from the last day of publication), or  
5 within thirty (30) days of receipt of direct written notice, whichever is earlier. The notice  
6 shall advise all interested persons that the petition:

- 7 a. shall be for a hearing to adjudicate the validity of the petitioner's  
8 alleged interest in the property;
- 9 b. shall be signed by the petitioner under penalty of perjury; and,
- 10 c. shall set forth the nature and extent of the petitioner's right, title, or  
11 interest in the property, as well as any facts supporting the petitioner's claim and the  
12 specific relief sought.

13 6. If no third-party petition is filed within the allowable time period, the  
14 United States shall have clear title to the property, and this Amended Preliminary Order  
15 shall become the Final Order of Forfeiture as provided by Fed. R. Crim. P. 32.2(c)(2);

16 7. If a third-party petition is filed, upon a showing that discovery is necessary  
17 to resolve factual issues it presents, discovery may be conducted in accordance with the  
18 Federal Rules of Civil Procedure before any hearing on the petition is held. Following  
19 adjudication of any third-party petitions, the Court will enter a Final Order of Forfeiture,  
20 pursuant to Fed. R. Crim. P. 32.2(c)(2) and 21 U.S.C. § 853(n), reflecting that  
21 adjudication; and,

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1       8. The Court will retain jurisdiction for the purpose of enforcing this  
2 Amended Preliminary Order, adjudicating any third-party petitions, entering a Final  
3 Order of Forfeiture, and amending the Amended Preliminary Order or Final Order as  
4 necessary pursuant to Fed. R. Crim. P. 32.2(e).

5       IT IS SO ORDERED.

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7       DATED this 1st day of July, 2024.

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10       THE HON. ROBERT S. LASNIK  
11       UNITED STATES DISTRICT JUDGE

12       Presented by:

13       s/Krista K. Bush

14       KRISTA K. BUSH

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